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The Legitimate Justification of Expropriation

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Propositions

accompanying the PhD thesis

“The Legitimate Justification of Expropriation: A Comparative Law and Governance Analysis by the Example of Third-Party Transfers for Economic Development”

defended by **Björn Hoops, LL.M.** on December 14th, 2017 at 16h15:

1. The constitutional public purpose requirement is all too often a toothless paper tiger.
2. The strictness of judicial review of expropriations depends upon the degree of society's confidence in the judiciary and the culturally and historically embedded relationship between the legislative, executive, and judicial power.
3. Greater specificity of expropriation legislation makes for more effective judicial protection and predictability. Yet this comes at the expense of the flexibility of planning authorities and project developers in practice.
4. Proportionality is a sword that is not remotely as sharp as is sometimes said, and would nowhere pave the way to a judicial abuse of power.
5. Expropriation law should recognise a home as a home. However, the payment of compensation makes expropriation law in most jurisdictions blind for the intrinsic value of a home or other types of property.
6. The acceptance of the least invasive means argument is a core principle of expropriation law.
7. The accountability of the project developer must not end at the moment of expropriation.
8. What some people view as the protection of the fundamental right of property is to other people an obstacle impeding the smooth acquisition of land. What some people view as abuse of the power to expropriate property is to others an expression of the flexibility required for a smooth acquisition of land.
9. To combat inequality and poverty, governments should introduce a global tobin tax, levy a wealth tax, and raise the inheritance tax. Expropriation is not necessary.
10. Human civilisation is not sustainable. My air miles bear witness to this.